

### **REMARKS**

This responds to the Office Action dated on February 23, 2006, and the references cited therewith.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 11-54 are now pending in this application.

#### **§112 Rejection of the Claims**

Claim 27 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action lists several of the method elements and indicates that it is unclear what is performing them. This rejection is respectfully traversed. It is clear in claim 27 that the method uses "logic independent from the checkweigher logic" as stated in the preamble. This is also a fundamental difference between the claims and the references cited below in the art based rejections. The present claims independently check a checker of a manufacturing process, whereas the references just check the manufacturing process.

Claims 35, 38, and 53 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action indicated that it was unclear whether a kit is being claimed or a computer readable medium. The preambles clearly indicate that a kit is being claimed. It is submitted that the computer readable medium is simply part of the kit. Thus, the claims are believed clear. A computer readable medium is a tangible item. As such, Applicant is not aware of any confusion that might be caused by including tangible items in a kit claim. In fact, sensors are also tangible and are also part of the kit in these claims. It is respectfully requested that the rejection be withdrawn.

#### **§103 Rejection of the Claims**

Claims 11-13, 15-18, 20, 21, 27-34, 53, and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa (U.S. Patent No. 6,711,874 B1) in view of Feurstein et al. (U.S. Patent No. 4,011,155). This rejection is respectfully traversed. The present claims independently check a checker of a manufacturing process, whereas the references just check the

manufacturing process. The claims all call for independence of an integrity checking system from checkweigher logic. As described in the application, a checkweigher is a system that checks packages on a conveyor to make sure that they are properly oriented for the actions that are to be performed, such as weighing the package. The present claims describe elements that operate independent from the checkweigher to make sure that the checkweigher is operating properly. If it is not, and there was not independent checking as claimed, items on the conveyor may not be properly weighed and items may not be rejected properly. Meanwhile, it may take a significant amount of time before discovering the problem, and much production time may be lost trying to determine when it failed, and what packages or other product may have been affected.

Nakagawa simply describes a system that inspects packaging, and does not have elements independent of the inspection system that checks operation of the inspection system. Thus, each of the independent claims, by reciting elements independent of the checkweigher logic, clearly distinguish from Nakagawa.

The Office Action indicates that “Nakagawa discloses a weight checker (30 or 300) (construed as a checkweigher) with checkweigher logic circuitry as part of a pharmaceutical packaging apparatus with conveyor (310). See figures 8a, 9a and 10, for example as well as col. 5, lines 22-31 which shows and discusses said checkweigher logic. These flowcharts indicate logic which is part of the check weigher controls (30) and seal checker controls (40). See col. 10, line 30-col. 11, line 67. The logic can be construed as Applicant’s integrity checking logic.” This statement is respectfully traversed. The check weigher controls (30) in Nakagawa, are not independent from the checkweigher system, but are part of it. The seal checker controls (40) do not check the integrity of the checkweigher system. It is simply not relevant that they appear independent from it, because they have nothing to do with checking the integrity of a checkweigher. Thus, Nakagawa does not disclose, teach, or suggest the claimed independent integrity checking.

The Office Action also indicates that Nakagawa “illustrates and discusses the displaying of messages on touch screen display (54) concerning the “integrity” of the system.” The cited figures and language deal with the system doing its normal checking, and tracking the number of times the check failed. It is not dealing with the integrity of the checking system, but rather the

integrity of the manufacturing process. If too many items are rejected, there is something wrong with the process. The cited figures and language clearly do not relate to the integrity of the checking system, and as such, do not describe the elements claimed.

The Office Action further states that Nakagawa does not express disclose, but Feurstein discloses sensing items such as packages (94) and rejecting those that are not of adequate length from a conveyor stream. "It is considered obvious to use the same set of beams to detect moth length and skew of a package since skew detection is considered to be a subset of length detection." This language does not provide the elements that are lacking in Nakagawa. Even when Feurstein is combined with Nakagawa, there is no teaching or suggestion of elements that are independent of the checkweigher, and that are used to check the integrity of the checkweigher. Both Nakagawa and Feurstein check the integrity of the manufacturing process, not the checker of the manufacturing process as claimed.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa (U.S. Patent No. 6,711,874 B1) in view of Feurstein et al. (U.S. Patent No. 4,011,155) and further in view of Komori et al. (U.S. Patent No. 5,990,422). This rejection is respectfully traversed. Komori et al., does not provide the elements that are lacking from Nakagawa. As such, claim 14 which ultimately depends from claim 11 is believed allowable for at least the same reasons as claim 11.

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa (U.S. Patent No. 6,711,874 B1) in view of Feurstein et al. (U.S. Patent No. 4,011,155) and further in view of Nozaki et al. (U.S. Patent No. 4,822,647). This rejection is respectfully traversed. Nozaki et al., does not provide the elements that are lacking from Nakagawa. As such, claim 19 which depends from claim 11 is believed allowable for at least the same reasons as claim 11.

Claims 22, 35, 37, 38, 40-42, and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa (U.S. Patent No. 6,711,874 B1) in view of Komori et al. (U.S. Patent No. 5,990,422). This rejection is respectfully traversed. These claims are believed to distinguish from Nakagawa for at least the same reasons as does claim 11. Komori et al., does

not provide the elements that are lacking from Nakagawa. It is respectfully requested that the rejection be withdrawn.

Claims 23, 36, 39, 43, and 45-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa (U.S. Patent No. 6,711,874 B1) in view of Komori et al. (U.S. Patent No. 5,990,422) and further in view of Feurstein et al. (U.S. Patent No. 4,011,155). This rejection is respectfully traversed. These claims are believed to distinguish from Nakagawa for at least the same reasons as does claim 11. Neither Komori et al. nor Feurstein et al., provide the elements that are lacking from Nakagawa. It is respectfully requested that the rejection be withdrawn.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6971 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

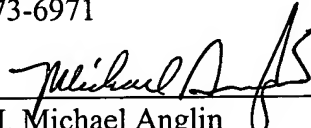
Respectfully submitted,

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Date 23 Aug 2006

By   
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23 day of May, 2006.

LISA ROSORSKE  
Name

  
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